



**Royal Borough of Kingston upon Thames
Community Infrastructure Levy
Minor Modifications Statement of Consultation
June 2015**

Background

1. In order for CIL to be adopted, it is required by the CIL Regulations 2010 (as amended) that the Council holds a minimum of two rounds of public consultation. The first round of consultation was the Preliminary Draft Charging Schedule (PDCS) held April 2013 - May 2013 and the second round was the Draft Charging Schedule held January 2014 – March 2014. The Council has also held stakeholder engagement session on 5th November 2012 in order to gauge the opinions of developers, commercial agents, planning agents and other organisations with an interest in development in Kingston.
2. Regulations 15 and 16 of the CIL Regulations specify the consultation bodies that the Council must consult for the PDCS and DCS. The Council has consulted beyond the statutory minimum requirement to ensure that a wider range of consultation bodies were given the opportunity to make representations.
3. Regulation 17 specifies that any person may make representations about a Draft Charging Schedule which a Charging authority proposes to submit to the examiner and that the period for consultation on the DCS must be no less than four weeks.
4. Regulation 19 relates to the submission of documents and information to the examiner; this includes a statement setting out if representations were made in accordance with Regulation 17, the number of representations made and a summary of the main issues raised by the representations. In addition, it requires the charging authority to publish a statement of modifications in accordance with Regulation 16, if the charging authority modified the DCS before it is submitted to the examiner.

5. As the adoption of a CIL is embedded within planning legislation, regulations and guidance and its purpose is to support the funding of infrastructure associated with the planned growth set out within the adopted Local Plan, it is appropriate to align the consultation arrangements for CIL with the Council's adopted Statement of Community Involvement (SCI) (2007), where possible. The Council's SCI sets out the consultation strategy for informing, consulting and feeding back to the community on the production of the Local Plan/ Local Development Framework. As such, the SCI along with statutory consultation requirements of the CIL Regulations (as set out above), helped form the basis for who has been consulted on CIL and how this was achieved.

Consultation: the Statement of Modifications

Introduction

6. Following consultation of the Draft Charging Schedule, and in accordance with Regulation 16, the Council agreed to make some minor modifications to the DCS in response to the formal representations. The resulting Statement of Modifications setting out the minor alterations to the Draft Charging Schedule has been consulted on ahead of submission in accordance with Regulation 19 of the Community Infrastructure Levy Regulations 2010 (as amended).
7. Royal Borough of Kingston upon Thames published the statement of minor modifications for a four week consultation period. Representations were invited from 5th of May until 3rd of June 2015 in accordance with Regulation 16 of the Community Infrastructure Levy Regulations 2010 (as amended).

The methods of consultation used are detailed below;

- (i) Information about the consultation, including documents and how to respond were made available on the Council's public website (Appendix 4).
- (ii) Notification to the statutory consultation bodies (Statutory bodies listed in Appendix 2) and in line with the Council's adopted SCI. The consultation letters/emails were sent to the entire Local Plan Database that the Council holds for developing local planning documents, including any previous respondents from the PDCS and DCS consultation stages, and therefore other companies, organisations and individuals in the development sector that may have an interest in CIL were also consulted. See Appendix 3 for copies of the consultation letters and emails.

The locations of where the Statement of Minor Modifications and supporting documents were made available for inspection:

- *The Council's principal office.*
A paper copy held at Kingston Council reception in Guildhall 2, High Street, Kingston upon Thames, KT1 1EU
 - *Kingston Council Website.*
An electronic copy available on the Council's website by visiting http://www.kingston.gov.uk/info/200155/planning/283/community_infrastructure_levy_cil/2
 - *Local libraries.*
A paper copy held for public inspection on request for the duration of the consultation period at all the main public libraries in the borough.
8. In accordance with the CIL Regulations, all eligible responses comment on the proposed modifications to the DCS, and any person may request in writing to be heard by the examiner. All responses and requests to be heard have been forwarded to the Examiner.

Summary of the main issues raised by the representations in accordance with Regulation 17 and 19 of the CIL Regulations (as amended):

9. In accordance with the CIL Regulations, all responses had to be made in writing or by way of electronic communications, received within the consultation period and relate specifically to the modifications as set out in the statement of minor modifications. Following the closure of the Statement of Minor Modifications consultation period, those representations received were collated, an overview of the comments made generated, and where appropriate the Council's responses prepared. The Council received 7 representations and 1 request has been made to be heard by the examiner over and above the requests made at previous consultation stages.
10. Appendix 1 of this report sets out all the consultation responses received during the Minor Modifications Consultation, including the Council's (and the Council's consultants') analysis of the responses and whether any modifications to the DCS are required as a result of the responses.

Appendix 1: Full Responses to the Kingston Statement of Minor Modifications Consultation

ID No.	Respondent	Response Method	Comment	RBK Response
1	Lindy N. Howard Deloitte C/O British Land	Email (03/06/2015)	<p>Welcomes changes to update and streamline the Draft Charging Schedule.</p> <p>Notes that the removal of the Exceptional Circumstances Relief within the Schedule. Requests that the Borough prepares Exceptional Circumstance Relief Notice, confirming that this relief is available in its area, and advises when this will be published on your website.</p>	<p>For the purposes of the Draft Charging Schedule it is not a requirement to include an Exceptional Circumstance Relief Notice.</p> <p>The publication of any future exceptional circumstances relief notices, in accordance with Regulation 56 of the CIL Regulations 2010 (as amended), is in no way inhibited by a failure to produce a relief notice at this stage.</p> <p>It is also useful to note that all the steps behind this process and any claim for this relief will need Committee approval and is therefore made open and transparent.</p>
2	Tom Dobson. Quod Planning C/O Berkely Group	Email (01/06/2015)	<p>Supports proposed modifications noting that they are minor and for the most part are aimed at simplifying the Draft Charging Schedule.</p> <p>Requests further editing or removal of sections relating to the Scope of CIL Charges (part D) and the Relationship between CIL and Section 106 (Part H), which they regard as imprecise summaries of the precise wordings in the regulations and CIL section of the Planning Practice Guidance.</p> <p>Requests confirmation of whether the removal of the proposed instalment policy reflects a change in the Council's</p>	<p>The Council has removed the Scope of CIL Charges Section and provided the following text:</p> <p>Calculating CIL</p> <p><i>CIL will be calculated as set out in the Community Infrastructure Levy regulations (2010) (as amended). This means that CIL will be calculated on the total net additional floor space created (measured as gross internal area). The CIL rates will be tied to the Royal Institute of Chartered Surveyors (or BCIS?) All-in Tender Price Index and the rate of CIL charged will therefore alter depending on the year planning permission for the chargeable development commences.</i></p> <p>The Council is mindful of the need to set out the relationship between section 106 and CIL, this has been removed from the DCS as it is provided in the Draft Planning Obligations SPD.</p>

			<p>approach or to simplify the Draft Charging Schedule.</p> <p>Requests confirmation of RBK's approach to monitoring and review.</p>	<p>The Instalments policy has been removed to simplify the Draft Charging Schedule; the policy will be submitted separately with the evidence at examination. The council has significantly increased the permitted payment period for amounts equal to or more than £500,000. The policy now reads: <i>£250,000 payable within 60 days of commencement of development. The amendment is considered to have a marginal positive impact on large developments.</i></p> <p><i>Balance payable in a further three instalments of equal amount within 180, 360 and 540 days of commencement of development.</i></p> <p>Comment Noted</p>
3	<p>Hannah Whitney</p> <p>Nathaniel Lichfield & Partners C/O Kingston University</p>	<p>Email (03/06/2015)</p>	<p>The representations submitted by NLP reiterate concerns raised at the DCS and PDCS stages and includes comments regarding the proposed student accommodation rate. The representations do not address the statement of minor modifications and have therefore not been taken into consideration.</p> <p>In addition Kingston University have drawn attention to RBKs response to their representation made in the PDCS consultation statement (Jan 2014) which states "Confirmation of the University's charitable status, which defacto makes it exempt from the CIL charge, but for the sake of clarity we will add the suggested text to the Charging Schedule. <i>"The CIL charge specifically excludes new/extended</i></p>	<p>BNP Paribas Real Estate and the Council had previously identified that where Kingston University were bringing a scheme forward they would be eligible for CIL relief on the basis of their charitable status. In their response to the PDCS consultation Kingston University identified that 'Kingston University can confirm that it does benefit from charitable status. The University is a Higher Education Corporation and is subject to regulation by the Higher Education Funding Council for England (HEFCE) in accordance with the Charities Act 2006 (Principal Regulators of Exempt Charities) Regulations 2010.' However, despite this the University remains of the view that a special exemption should be included in the charging schedule that 'The CIL specifically excludes new/extended student accommodation owned and/or operated by Kingston university'. The Council and BNP Paribas Real Estate have serious concerns about this position as it is not based on any viability grounds. We are aware that if an exemption for Kingston University as requested by NLP were allowed in the charging schedule, the University would still be</p>

			<p><i>student accommodation owned by Kingston University.</i></p>	<p>capable of setting rents at levels that could viably be able to pay a CIL charge, e.g. the IQ development, which was advertised on the University's website in 2014 as for rents of £186 - £266 per week. BNP Paribas Real Estate's appraisals of a scheme at £180 per week demonstrated that it was able to viably accommodate the Council's proposed CIL charge. Allowing such a concession for one party where there is no viability basis would be tantamount to State Aid.</p> <p>We also note that the Council's Draft Planning Obligations SPD identifies at para 4.6 that, 'Developments are likely to be exempt if the accommodation is secured by a planning agreement which requires all occupants to be enrolled as students at higher education institutions within the Borough, e.g. Kingston University or Kingston College'. In this regard we note that University led or developed schemes which are let at rents of £180 or more are likely not to have to provide affordable housing and therefore are able to support higher levels of CIL than direct let schemes not linked to universities i.e. our appraisals (which are included in BNP Paribas Real Estate's August 2014 CIL Viability Assessment) identify a maximum CIL charge of £844 per sqm where there is no affordable housing and £278 per sqm where affordable housing is provided as part of the scheme.</p> <p>As Kingston University will be aware, the Council engaged with them following the PDCS consultation in relation to their concerns and the Council subsequently offered to consider a dual rate approach similar to that adopted by the LB Southwark. This would have effectively offered all schemes where an 'affordable rental level' i.e. below a specific rental level identified as being £160 per week, is secured through a S106 agreement a nil rate of CIL. This rental level would then be subject to an annual indexation to</p>
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			<p>ensure it remained relevant. This proposal was on the basis that such schemes were identified by BNP Paribas Real Estate's viability testing (see Additional Student Accommodation Evidence document) as being not able to viably support the proposed CIL charge. Kingston University's response to this proposal was that 'Lower rents of circa £150 to £160 per week are only usually achievable though long term (25 + years) agreements with a University. We believe that such agreements would be exempt from CIL anyway as it is our understanding that once an agreement exceeds 7 years it would be considered a University development and would be eligible for charitable status and hence would be exempt from CIL in any event.'</p> <p>BNP Paribas Real Estate highlight that the rents adopted in our viability study for direct let student schemes at term rates of £180 per week are conservative. For example the IQ scheme, which is let to Kingston university students i.e. Kingston university has a lease with IQ for 5 years, 48% of the units were priced at rents of £186 per week for 50 weeks and 52% of units priced at over £200 per week (£201 - £266 per week). Taking this assumption into consideration this would significantly increase the revenue generated by student accommodation schemes. See the attached appraisal sensitivity at £200 per week which demonstrates that a maximum CIL rate of £1,217 per sqm.</p> <p>We would highlight other private schemes' rental levels and tenancy terms below, which are significantly more than that tested by BNP Paribas Real Estate (also see Student Accommodation additional document for website printouts of this evidence). In this context the CIL rate proposed by the Borough is conservative (see Student Accommodation additional document for sensitivity test based on a rent of £229 per week, which demonstrates a</p>
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				<p>maximum CIL charge of £2,578 per sqm).</p> <ul style="list-style-type: none"> · The Unite One Penrhyn Road scheme units started from £239 per week predominantly on 51 week lets; · The Unite Greencoat House scheme units started from £245 per week on 51 week lets; · The Fresh student housing scheme at Quebec House offered units at between £229 to £309 per week on 50 week lets; and · The Fresh student housing scheme at the Student Quarter offered units at between £185 to £290 per week on 50 week lets. <p>We note the University's assertion that a CIL charge will result in higher rents being charged by developers. However, the market determines the rent, not developers and further even if developers did try to increase the rents our analyses indicates that a nominal increase of only £10 per week would be required to offset any impact of CIL (assuming that it is not possible to pass on the impact of CIL to the land owner and further that CIL is payable on the entire gross floorspace i.e. no offsetting of existing floorspace).</p> <p>On this basis BNP Paribas Real Estate and the Council do not consider that a separate rate for Kingston University student accommodation developments would be appropriate.</p>
4	Katharine Fletcher Historic	Email (03/06/2015)	We have reviewed the consultation document in light of the National Planning Policy Framework (NPPF) and confirm that we do not have any further comments	Comment Noted

	England		to make at this stage. We trust that the implementation of CIL will be subject to annual monitoring and its potential for impacts on the historic environment, both positive and negative, will be reviewed appropriately.	
5	Peter Heath Greater London Authority	Email (02/06/2015)	I note that there is no substantive change to the DCS, and that the proposed modifications are intended to simplify the document and update it to reflect the current CIL regulations / guidance. Accordingly, I have nothing to add to my response dated 6 th March 2014 and that these comments still stand.	Comment Noted
6	Stephen Gee Highways England	Email (27/05/2015)	Having reviewed the consultation document, Highways England have concluded that they have no comments	Noted
7	Mrs Caroline Cheales Resident	Online Consultation Portal (09/05/15)	Continuous lawful use should be better described. For example: Floorspace subject to demolition or resulting from change of use can only be deducted from the CIL charge where it has been in continuous lawful use for at least 6 months in the 3 years prior to a development being permitted. <u>It will be for the applicant or their agent to demonstrate lawful use by providing appropriate evidence such as Council Tax records or Business Rate documentation to prove</u>	Comments noted

			<p><u>this</u> .</p> <p>And further clarifications:</p> <p>Floor space will <u>only</u> be taken into consideration if the following criteria are met:</p> <ol style="list-style-type: none">1. On the day planning permission is granted the floor space of the existing building exists; <u>and</u>2. the existing building is demolished before completion; <u>and</u>3. in the 3 years preceding the grant of planning permission, at least part of the building has been in lawful use for a continuous 6 month period.	
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Appendix 2: List of Statutory Consultation bodies for Kingston Council in accordance with the CIL Regulations (Regulation 15)

Adjoining local planning authorities

- London Borough of Merton
- London Borough of Richmond
- London Borough of Sutton
- London Borough of Wandsworth
- Elmbridge Borough Council
- Epsom and Ewell Borough Council
- Mole Valley district Council

Adjoining County Council:

- Surrey County Council

Responsible Regional Authority

- Greater London Authority (GLA)
- Natural England
- Highway Agency
- Kingston NHS Primary Care Trust
- Transport for London (TFL)

Appendix 3: Statement of Minor Modifications Consultation Letter/Email

Development, Planning & Regeneration Team

Guildhall 2,
High Street,
Kingston upon Thames,
Surrey KT1 1EU

Enquiries to: Jamie Fox/Jason Ashby
Tel: 020 8547 4693/4749
Email: dpr@kingston.gov.uk
Website: www.kingston.gov.uk

Dear Sir/Madam,

Royal Borough of Kingston upon Thames

Consultation on Minor Modifications to Community Infrastructure Levy Draft Charging Schedule

On the 5th of May 2015, The Royal Borough of Kingston upon Thames will be publishing a Statement of Minor Modifications to the CIL Draft Charging Schedule for a four week period of consultation. The document has been prepared in accordance with the CIL Regulations 2010 (as amended) and the Planning Act 2008 (as amended).

The Royal Borough of Kingston upon Thames's Draft Charging Schedule was published for public consultation on 10th January 2014 to 7th March 2014, this consultation period allowed for public representations to be received, and complies with Regulation 16 of the Community Infrastructure Levy Regulation 2010 (as amended).

The Royal Borough of Kingston upon Thames received 37 representations to the CIL Draft Charging Schedule within the consultation period. In accordance with Regulation 11 and 19 of the Community Infrastructure Regulations 2010 (as amended), the Statement of Modifications sets out the minor modifications made to

the Draft Charging Schedule since publication for consultation, in accordance with Regulation 16.

The council is now inviting representations on the Statement of Minor Modifications, which must be made by 03/06/2015. The Statement of Modifications, associated evidence and information on how to make comments will be published on the Royal Borough of Kingston upon Thames website. Hard copies of the documents will also be made available at Council libraries and the Council offices at Guild Hall 2, Kingston upon Thames, KT1 1EU during normal opening hours.

Comments can be made via:

- Online consultation portal on our web page.
- Email: dpr@kingston.gov.uk
- Post: Royal Borough of Kingston upon Thames, Development Planning and Regeneration, Guild Hall 2, KT1 1EU, Kingston

Organisations and individuals making representations may request the right to be heard by the examiner in relation to these modifications. A request to be heard by the examiner must be made in writing to The Royal Borough of Kingston upon Thames by 03/06/2015. Anyone requesting to be heard should indicate whether they support or oppose modifications and explain why. The Council will submit a copy of each request it receives to the Examiner. Requests to be heard may be withdrawn at any time by giving notice in writing to the Council.

Please note that the right to be heard at this stage of the process applies only in relation to the modifications being consulted on.

All comments received and a copy of each request to be heard in relation to these modifications will form part of the final submission to examination of the Royal Borough of Kingston upon Thames Draft Charging Schedule.

If you have any further queries please contact Development Planning and Regeneration, Royal Borough of Kingston upon Thames on 020 8547 5002 or via email, dpr@kingston.gov.uk

Yours sincerely,

Jamie Fox

Lead Officer – Investment and Regeneration

Development Planning and Regeneration

Appendix 4: Kingston Council CIL Web Page.

The screenshot shows the Kingston Council website page for the Community Infrastructure Levy (CIL) charging schedule. The page features a header with the council logo, navigation links (Skip to content, Accessibility, Change fonts and colours, Log in, Contact), and a search bar. The main content area is titled "Community Infrastructure Levy (CIL) Kingston CIL charging schedule" and includes a "Draft charging schedule and supporting documents" button. The page is divided into sections: "The charging schedule describes how we work out and set the scale of charges that will be applied to development across the borough. We try to balance:" followed by a list of considerations; "Before the charging schedule is adopted it has to be agreed through two consultations and a public examination. The production timetable is:" followed by a list of dates; "Before the public consultation that started on 10 January 2014, the Draft Charging Schedule was considered by the Council's 28 November Place and Sustainability Committee. The report to that Committee is available at [Place and Sustainability Committee](#)."; "The Draft Charging Schedule, Draft Revised Planning Obligations Supplementary Planning Document and supporting documents can be downloaded from this section. They are also available from [libraries](#) and our main [Guidhall 2 reception](#)."; "We welcome your comments on the Kingston Community Infrastructure Levy Statement of Minor Modifications via the following means:" followed by a list of contact methods; "Representations received will be taken into consideration before submitting the CIL Charging Schedule (in accordance with Section 212 of the Planning Act) for independent examination in public by an independent inspector."; "If you make a representation you can request the right to be heard by the examiner. Please let us know if you would like to:" followed by a list of notification preferences; and "Please specify the address where notification should be sent. If you have any questions please contact us at dpr@rbk.kingston.gov.uk or on 020 8547 5002." The page also includes a left sidebar with navigation links, a right sidebar with "More in 'Community Infrastructure Levy (CIL)'" links, and a footer with social media icons and contact information.

Kingston Council

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Community Infrastructure Levy (CIL)

Kingston CIL charging schedule

Draft charging schedule and supporting documents

More in "Community Infrastructure Levy (CIL)"

- › Mayoral CIL
- › Kingston CIL
- › **Kingston CIL charging schedule**
- › Kingston CIL - spending

The charging schedule describes how we work out and set the scale of charges that will be applied to development across the borough. We try to balance:

- the advantage of CIL completely or partly funding the total cost of infrastructure development
- the potential effects of introducing CIL on the economic viability of development

Before the charging schedule is adopted it has to be agreed through two consultations and a public examination. The production timetable is:

- consult on the preliminary draft charging schedule - 2 April to 14 May 2013
- consult on the draft charging schedule - 10 January to 7 March 2014
- consult on the minor modifications - 5 May to 3 June 2015
- examine the charging schedule - early summer 2015
- adopt the charging schedule - autumn 2015

Before the public consultation that started on 10 January 2014, the Draft Charging Schedule was considered by the Council's 28 November Place and Sustainability Committee. The report to that Committee is available at [Place and Sustainability Committee](#).

The Draft Charging Schedule, Draft Revised Planning Obligations Supplementary Planning Document and supporting documents can be downloaded from this section. They are also available from [libraries](#) and our main [Guidhall 2 reception](#).

We welcome your comments on the Kingston Community Infrastructure Levy Statement of Minor Modifications via the following means:

- online [consultation portal](#)
- email - dpr@rbk.kingston.gov.uk
- post - DPR Team, Planning Department, Guildhall 2, High Street, KT1 1EU

Representations received will be taken into consideration before submitting the CIL Charging Schedule (in accordance with Section 212 of the Planning Act) for independent examination in public by an independent inspector.

If you make a representation you can request the right to be heard by the examiner. Please let us know if you would like to:

1. be notified when the Draft Charging Schedule is submitted to the examiner (in accordance with section 212 of PA 2008)
2. be notified when the examiner's recommendations and the reasons for those recommendations are published
3. be notified when we approve the Charging Schedule

Please specify the address where notification should be sent. If you have any questions please contact us at dpr@rbk.kingston.gov.uk or on 020 8547 5002.

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Kingston Community Infrastructure Levy Statement of Minor Modifications

 The event is not currently available for consultation.

We would like to hear your views on the Minor Modifications made to the Royal Borough of Kingston upon Thames Community Infrastructure Levy Draft Charging Schedule.

Background

The Royal Borough of Kingston upon Thames Community Infrastructure Levy Draft Charging Schedule was published for public consultation on 10th January 2014 and ran until the 7th March 2014, this consultation period allowed for public representations to be received.

The Royal Borough of Kingston upon Thames received 37 representations to the CIL Draft Charging Schedule within the consultation period. The Statement of Minor Modifications sets out the minor modifications made to the Draft Charging Schedule since publication for consultation.

Description

The Council is now inviting representations on the Statement of Minor Modifications, which must be made by 03/06/2015. Organisations and individuals making representations may request the right to be heard by the examiner in relation to these modifications. A request to be heard by the examiner must be made in writing to The Royal Borough of Kingston upon Thames by 03/06/2015. Anyone requesting to be heard should indicate whether they support or oppose modifications and explain why. The Council will submit a copy of each request it receives to the Examiner. Requests to be heard may be withdrawn at any time by giving notice in writing to the Council.

Please note that the right to be heard at this stage of the process applies only in relation to the modifications being consulted on.

You can download the previous version of the Draft Charging Schedule, the Statement of Minor Modifications and revised Draft Charging Schedule [here](#).



Event Information	Supporting Documents
Access:  Login required	
Status:  closed	
Privacy: If you take part, your name will not be shown, your answers will not be shown, your town/city will not be shown	
Description: The Statement of Modifications sets out the minor modifications made to the Kingston Community Infrastructure Levy Draft Charging Schedule since publication for consultation. The council is now inviting representations on the statement of minor modifications.	
Organisation: Royal Borough of Kingston upon Thames	
Contact Name: Development Planning and Regeneration	
Contact Email: dpr@kingston.gov.uk	
Contact Telephone: 0208 547 5002	
Other Contact Information: Development Planning and Regeneration Royal Borough of Kingston upon Thames Guildhall 2, Floor 2 Kingston Upon Thames Surrey KT1 1EU	
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